

## **INITIAL STATEMENT OF REASONS**

### **CALIFORNIA POLLUTION CONTROL FINANCING AUTHORITY**

#### **Article 9**

**Sections 8090, 8091, 8092, 8093, 8094, 8095, 8098, 8099, 8101, 8102, 8102.1, 8102.2, 8102.3, 8102.4, 8102.5, 8102.6, 8102.7, 8102.8, 8102.9, 8102.10, 8102.11, 8102.12, 8102.13, 8102.14, and 8102.15**

#### **Title 4, Division 11**

#### **California Code of Regulations**

### **INTRODUCTION**

The California Pollution Control Financing Authority (the “Authority” or “CPCFA”) is organized and operating pursuant to Sections 44500 through 44563 of the California Health and Safety Code (the “Act”). In 2000, the Authority was authorized to provide loans (directly, or indirectly through intermediaries) to assist in financing, among other things, the costs of performing or obtaining brownfield site assessments, remedial action plans and reports, technical assistance, cleanup, remediation, or development of brownfield sites, or any other similar or related costs, subject to all applicable federal, state, and local laws, procedures, and regulations (S.B.1986, Stats. 2000, Ch. 915). The California Recycle Underutilized Sites (CALReUSE) Program was created.

When CALReUSE was first developed in 2001 the Authority determined to roll out the program in two phases: phase one would include the financing of brownfield assessment, characterization and development of remedial action plans; and phase two would include the financing of brownfield remediation and development. The Authority set aside \$10 million to fund the Site Assessment Program (phase one) activities on a pilot basis, with the goal of expanding the program at a later date. CALReUSE’s goal is to spur the development of brownfields. The program achieves this goal through providing pre-development dollars to address a gap in the funding of brownfields. The most risk for any development project is at the pre-development phase. For brownfield-based projects (as opposed to “greenfield” projects on previously undeveloped land), many developers are hesitant to invest funds because the ultimate costs of remediation—and thus development—are unknown or unclear. CALReUSE closes this funding and information gap by providing pre-development dollars to finance professional site assessments. This brings certainty to the economic and development equation by quantifying environmental risks, providing information necessary for a remediation plan, assisting with development efforts, and applying cost and timeframe information to the problem. Parties to a brownfield project then can make informed decisions and measure exposure to liability. This significantly enhances the probability that a site can move forward in the development process. CALReUSE has been successfully financing brownfield site assessment since 2002.

The Housing and Emergency Shelter Act (Proposition 1C) was the impetus to the CALReUSE expansion beyond site assessment financing to include a loan and grant program to finance brownfield cleanup. Approved by voters in 2006, The Housing and Emergency Shelter Trust Fund Act slated \$850 million for infill infrastructure investments. It includes a provision for brownfield cleanup that promotes infill housing development and other related infill development consistent with regional and local plans. In 2007, the Legislature allocated \$60

million of Proposition 1C monies to CALReUSE, in consultation with the Department of Housing and Community Development (HCD), to provide grants and loans for the purpose of brownfield cleanup that promotes infill residential and mixed-used development, consistent with regional and local land use plans (Senate Bill 86, 2007).

This rulemaking process was undertaken to create the new mandated CALReUSE Remediation Program, to be implemented by Sections 8090 and 8102 through 8102.15. Throughout the emergency rulemaking process and at workshops held across the state, staff received comments from stakeholders specific to programmatic hurdles of regulatory provisions specific to the CALReUSE Assessment Program (Section 8090 through 8101). These proposed regulatory changes also address the concerns raised specific to the Assessment Program and create consistency between the two programs.

## SECTION-BY-SECTION ANALYSIS

### SECTION 8090. DEFINITIONS.

#### 1. Public Problem, Administrative Requirement or Other Condition or Circumstance that the Regulation is Intended to Address.

Health and Safety Code Section 53545.14 mandates that the Authority *shall administer grants or loans...under the CALReUSE program...for the purpose of brownfield cleanup that promotes infill residential and mixed-use development, consistent with regional and local land use plans.* This legislative mandate expands the CALReUSE Assessment Program, authorized by Health and Safety Code Sections 44501(e), 44504.1, 44526 and 44537.5 which permit loans *to assist in financing, among other things, the costs of performing or obtaining brownfield site assessments, remedial action plans and reports, technical assistance, the cleanup, remediation, or development of brownfield sites, or any other similar or related costs, subject to all applicable federal, state, and local laws, procedures, and regulations.*

The establishment of these definitions will ensure a clear and transparent process for governing the Programs.

#### 2. Specific Purpose of the Regulation.

Modifications to Section 8090 are necessary to: 1) expand definitions to include and refer to the new CALReUSE Remediation Program that is primarily set forth in Subarticle 2 [paragraphs (a), (b), (d), (ab), (af), (ah)]; 2) conform with federal law [paragraph (h)]; 3) recognize changes in state law since the section was last amended, and ensure consistency in changes to state law (and potential future changes) [paragraphs (j) (l), (w), (y), (ag)]; 4) make clarifying modifications that streamline the regulations [paragraphs (ad), (ae)]; and 5) expand the definition of eligible costs for the Assessment Program [paragraph (k)]. Paragraphs are also renumbered as necessitated by the changes.

**8090(a):** This subsection establishes the definition for “Applicant.” This definition is necessary to make it clear what types of entities may participate in, and through such participation become subject to the requirements of, the CALReUSE Assessment Program. This definition has been amended to affect the CALReUSE Remediation Program by adding the reference to “Infill Loan” and “Infill Grant.”

**8090(b):** This subsection establishes that “Application” means the information an Applicant provides to the Strategic Partner when seeking a Loan under section 8092 and section 8093.

This definition is necessary to clarify the information requirements and the process to qualify for a Loan under Health and Safety Code section 44526(h). This definition has been amended to affect the CALReUSE Remediation Program.

**8090(d):** This subsection establishes that “Borrower” means an Applicant whose loan has been approved and who has executed a loan agreement. The term “Infill Loan” was added to the definition to incorporate the development of the Remediation Program. This definition is necessary to differentiate between the person or entity that is applying for a loan and the person or entity that receives a loan.

**8090(h):** This subsection establishes that “Consultant” means a person or entity that meets certain qualifications. This definition was modified and streamlined to replace a listing of specific qualifications with a specific reference to the requirements as outlined by federal code (40 CFR, Section 312.10). This change will enable the program to remain consistent with federal requirements of environmental consultants as they change through due process. It is necessary to ensure that those individuals performing work for the Brownfield Project are adequately qualified and parallels the educational and experience requirements contained in statute for other programs requiring similar work. This modification to the definition is necessary to ensure that the definition maintains compliance with federal requirements, as the federal code may change. Additionally, the definition is needed to clarify the meaning of the word used in the regulation text.

**8090(j):** This subsection establishes that “Economically ~~Struggling~~ Distressed Community” means a community that meets certain conditions described therein. The previous term “Economically Struggling Community” was amended to “Economically Distressed Community” to maintain consistency in the definition with a sister state agency, the California Debt Limit Allocation Committee (CDLAC). Consistency is important due to the fact that CPCFA and CDLAC have similar clients and stakeholder groups, and for the entities to remain “user friendly” to the state’s clients. This definition is necessary to clarify the requirements for a community to qualify as an economically struggling community under Health and Safety Code section 44537.5. This definition was expanded to include specific references to federal code which had previously been independently defined in sections 8090(l) and 8090(m), which will 1) ensure consistency with federal definitions and 2) simplify and streamline these regulations.

**8090(k):** This subsection establishes that “Eligible Costs” means any of the costs identified therein. Subsection (5) was added to the provision, expanding the definition to include *the costs of the Oversight Agency and other governmental oversight incurred by the borrower that is related to the site assessment and characterization, and Planning for Remediation of Hazardous Material*. The expansion of “Eligible Costs” is necessary to ensure the effectiveness of the program in assisting with the assessment and cleanup of contaminated sites. These specific costs can be prohibitive in revitalizing a brownfield. This definition is consistent with Health and Safety Code section 44526(h) and is necessary to clarify the meaning of the term used in the regulation text.

**8090(l):** The definition “Empowerment Zone” was removed because it was incorporated into 8090(j). It was necessary to combine the provisions to streamline and increase the usability of the regulations. This definition is necessary to clarify whether a community qualifies as an Economically Distressed Community under the regulation.

**8090(m):** The definition “Enterprise Community” was removed because it was incorporated into 8090 (j). It was necessary to combine the provisions in order to streamline and increase the usability of the regulations. This definition is necessary to clarify whether a community qualifies as an Economically Distressed Community under the regulation.

**8090(lh):** This definition establishes that an “Enterprise Zone” means an area designated as a manufacturing enhancement area pursuant to California Government Code section 7073. This definition was modified to align the regulations and ensure consistency with any future modification to the structure of California government and California Code. It was necessary to remove “by the Trade and Commerce Agency” because the Trade and Commerce Agency no longer exists in California State Government. This definition is necessary to clarify whether a community qualifies as an Economically Distressed Community under the regulation.

**8090(wy):** This definition establishes that “Manufacturing Enhancement Area” means an area designated as a manufacturing enhancement area pursuant to California Government Code section 7073.8. This definition was modified to align the regulations and ensure consistency with any future modification to the structure of California government and California Code. It was necessary to remove “by the Trade and Commerce Agency” because the Trade and Commerce Agency no longer exists in California State Government. This definition is necessary to clarify whether a community qualifies as an Economically Distressed Community under the regulation.

**8090(y aa):** This definition establishes that “Oversight Agency” means a governmental entity that meets certain qualifications described therein. By state and federal law, numerous government agencies are legally empowered to regulate and oversee the cleanup of Hazardous Material, ranging from the local county environmental agencies to the Department of Toxic Substances Control to the US Environmental Protection Agency. This modified definition is necessary to ensure that the Program regulations do not unintentionally inhibit a specific Oversight Agency from participating in the Program which may otherwise be legally authorized to oversee and regulate the cleanup. In addition, this definition is necessary to ensure that the Program is able to respond to any future modifications and changes to the law related to an Oversight Agency. This subsection is necessary to clarify the meaning of the term used in the regulation text.

**8090(z):** This definition establishes that “Planning for Remediation of Hazardous Material” means a process identified therein for the purpose of developing a Remedial Action Plan or Cleanup Plan. This subsection was modified for clarity and consistency, the term Cleanup Plan was added to the definition to be applicable to the Remediation Program, and is necessary to clarify the meaning of the term used in the regulation text and to assist the reader in reviewing the regulation in a logical manner.

**8090(ab ad)** This subsection establishes that “Remedial Action Plan” or “Cleanup Plan” means a plan for performing a Remedy or taking a Remedial Action. Many stakeholders provided comments to the Authority that reflected the term “Remedial Action Plan” in practice is a term typically used by a specific oversight agency. Given the common usage of the term by this specific Oversight Agency, stakeholders and the Authority agreed that to avoid confusion the Regulations should use a broader term for this specific definition. Expanding this definition to include “Cleanup Plan” is necessary to clarify the meaning of the term, and provide a more generic description in the definition that more accurately reflects the Authority’s intent.

Furthermore, the definition was expanded to include “approved by the Oversight Agency” which modifies the definition from just a plan for the cleanup, to one that is a plan that has actually been approved by the regulating agency. The modification in the definition is necessary to ensure that the applicant meets clear readiness and environmental cleanup criteria – that an Oversight Agency has approved the Cleanup Plan. This term is used in the regulation text to assist the reader in reviewing the regulation in a logical manner.

**8090(ad af):** The definition “Remedy” or “Remedial Action” was modified so that instead of referring to the Health and Safety Code, it states the specific meaning. This modification was necessary to ensure consistency with any future modification to the structure of California government and California Code, and within the program’s regulations. Further, this definition is necessary to clarify the meaning of the term used in the regulation text and to assist the reader in reviewing the regulation in a logical manner.

**8090 (ae ag):** The definition of “Small Business” was rewritten to assist the reader in reviewing the regulation in a logical manner; the meaning of the term has not changed.

**8090 (af ah):** The definition of “Strategic Partner” was expanded to include references and be applicable to the Remediation Program, as well as the Assessment Program. This definition is necessary to clarify the meaning of the term used in the regulation text and to assist the reader in reviewing the regulation in a logical manner.

**8090(ag ai):** This definition establishes a “Targeted Tax Area” by reference to the specific California Government Code Section 7079. This definition was modified to align the regulations and ensure consistency with any future modification to the structure of California government and California Code. It was necessary to remove “by the Trade and Commerce Agency” because the Trade and Commerce Agency no longer exists in California State Government. This definition is necessary to clarify whether a community qualifies as an Economically Distressed Community under the regulation.

**8090(ah aj):** The definition of “Technical Assistance” was expanded to include reference and be applicable to the Remediation Program, as well as the Assessment Program. This definition is necessary to clarify the meaning of the term used in the regulation text and to assist the reader in reviewing the regulation in a logical manner.

### 3. Necessity.

Amendments were made to the definitions governing the program in order to bring definitions and references up to date with current law, accommodate potential future changes to existing statute, and create continuity and consistency between the existing Assessment Program and the new Remediation Program.

### 4. Technical, Theoretical and/or Empirical Studies, Reports or Documents.

The Authority did not rely upon any technical, theoretical or empirical studies, reports or documents in proposing the adoption of this regulation.

### 5. Alternatives to the Regulation Considered by the Agency and the Agency’s Reasons for Rejecting Those Alternatives.

No other alternatives were presented to or considered by the Authority.

6. Alternatives to the Proposed Regulatory Action that Would Lessen any Adverse Impact on Small Business.

The Authority has not identified any alternatives nor have any alternatives otherwise been identified and brought to the attention of the Authority that would lessen any adverse impact on small businesses. In fact, the regulation may have a positive effect on small businesses by expanding the types of financing available under the Program.

7. Evidence Supporting Finding of No Significant Adverse Economic Impact on any Business.

There will be no adverse economic impact on any California businesses. In fact, the regulation may have a positive effect on businesses by expanding the types of financing permissible under the Act to include loans and grants to businesses interested in the development of brownfields.

## **SECTION 8091. BROWNFIELD PROJECT LOAN ELIGIBILITY.**

### **1. Public Problem, Administrative Requirement or Other Condition or Circumstance that the Regulation is Intended to Address.**

Sections 44501(e), 44504.1 and 44526(h) of the Health and Safety Code permit loans to assist in financing, among other things, the costs of performing or obtaining brownfield site assessments, remedial action plans and reports, technical assistance, the cleanup, remediation, or development of brownfield sites, or any other similar or related costs, subject to all applicable federal, state, and local laws, procedures, and regulations.

### **2. Specific Purpose of the Regulation.**

Section 8091 is amended to enact a policy change concerning the eligibility of certain brownfields in the CALReUSE program.

**~~8091(j):~~** The removal of this subsection lifts an exemption within the Assessment Program which prohibited the financing of specific brownfield sites. The Authority received compelling information and testimony which led to the policy decision that many of the sites falling into the categories as previously described in section 8091(j) are viable sites that can be revitalized for productive community use. The Authority adopted the position that a brownfield that can be identified under one of the previously listed categories should not be arbitrarily excluded from financing considerations. The removal of this subsection is necessary to enact the policy decision that all brownfield sites should be considered for revitalization and financing in the program.

### **3. Necessity.**

Modification to Section 8091 is necessary to remove the exclusion of specific types of brownfield sites from eligibility. To date, this exclusion has prohibited the revitalization of numerous blighted sights that would otherwise have the strong potential to be redeveloped and revitalize their communities.

### **4. Technical, Theoretical and/or Empirical Studies, Reports or Documents.**

The Authority did not rely upon any technical, theoretical or empirical studies, reports or documents in proposing the adoption of this regulation.

### **5. Alternatives to the Regulation Considered by the Agency and the Agency's Reasons for Rejecting Those Alternatives.**

No other alternatives were presented to or considered by the Authority.

### **6. Alternatives to the Proposed Regulatory Action that Would Lessen any Adverse Impact on Small Business.**

The Authority has not identified any alternatives nor have any alternatives otherwise been identified and brought to the attention of the Authority that would lessen any adverse impact on small businesses. In fact, the regulation may have a positive effect on small businesses by expanding the types of financing available under the Program.

### **7. Evidence Supporting Finding of No Significant Adverse Economic Impact on any Business.**

There will be no adverse economic impact on any California businesses. In fact, the regulation may have a positive effect on businesses by expanding the types of financing permissible under the Act to businesses interested in the development of brownfields.

## **SECTION 8092. BROWNFIELD PROJECT APPLICATION CONTENT.**

### **1. Public Problem, Administrative Requirement or Other Condition or Circumstance that the Regulation is Intended to Address.**

Sections 44501(e), 44504.1 and 44526(h) of the Health and Safety Code permit loans to assist in financing, among other things, the costs of performing or obtaining brownfield site assessments, remedial action plans and reports, technical assistance, the cleanup, remediation, or development of brownfield sites, or any other similar or related costs, subject to all applicable federal, state, and local laws, procedures, and regulations.

### **2. Specific Purpose of the Regulation.**

Section 8092 is modified to clarify existing procedures.

**8092(e):** This subsection requires that the Applicant provide certain information identified therein about the Brownfield for which a Loan is being requested. It was modified to a) require more descriptive information regarding the location of the Brownfield, and b) replace "struggling" with "distressed." This modification is required for consistency with the definitions [Section 8090 (j)] within the regulation. Further, this requirement is necessary to (1) determine project priority, (2) gain an initial understanding of environmental issues related to the property, and (3) to understand the development potential of the property that will be the subject of the Loan consistent with Health and Safety Code sections 44526(h)(2), 44526(h)(3)(A), 44526(i) and 44537.5.

### **3. Necessity.**

The modification of Section 8092(e) is necessary in order to 1) obtain additional information about the brownfield site that will assist the Strategic Partner in making underwriting decisions (e)(1)(A) and 2) conform with definitional amendments (e)(1)(B).

### **4. Technical, Theoretical and/or Empirical Studies, Reports or Documents.**

The Authority did not rely upon any technical, theoretical or empirical studies, reports or documents in proposing the adoption of this regulation.

### **5. Alternatives to the Regulation Considered by the Agency and the Agency's Reasons for Rejecting Those Alternatives.**

No other alternatives were presented to or considered by the Authority.

### **6. Alternatives to the Proposed Regulatory Action that Would Lessen any Adverse Impact on Small Business.**

The Authority has not identified any alternatives nor have any alternatives otherwise been identified and brought to the attention of the Authority that would lessen any adverse impact on small businesses. In fact, the regulation may have a positive effect on small businesses by expanding the types of financing available under the Program.

### **7. Evidence Supporting Finding of No Significant Adverse Economic Impact on any Business.**

There will be no adverse economic impact on any California businesses. In fact, the regulation may have a positive effect on businesses by expanding the types of financing permissible under the Act to include loans and grants to businesses interested in the development of brownfields.

## **SECTION 8093. APPLICATION AVAILABILITY, SUBMISSION AND STRATEGIC PARTNER REVIEW.**

### **1. Public Problem, Administrative Requirement or Other Condition or Circumstance that the Regulation is Intended to Address.**

Sections 44501(e), 44504.1 and 44526(h) of the Health and Safety Code permit loans to assist in financing, among other things, the costs of performing or obtaining brownfield site assessments, remedial action plans and reports, technical assistance, the cleanup, remediation, or development of brownfield sites, or any other similar or related costs, subject to all applicable federal, state, and local laws, procedures, and regulations.

### **2. Specific Purpose of the Regulation.**

The amendment to Section 8093 modifies the program's official acronym.

**8093(a):** This subsection provides information about how those persons interested in applying for a CALReUSE loan may obtain and submit and Application. The acronym was modified to conform to the acronym used in marketing and administering the program.

### **3. Necessity.**

The modification is necessary to create consistency and conform the acronym of the program used within the regulation to the acronym used in marketing and administering the program.

### **4. Technical, Theoretical and/or Empirical Studies, Reports or Documents.**

The Authority did not rely upon any technical, theoretical or empirical studies, reports or documents in proposing the adoption of this regulation.

### **5. Alternatives to the Regulation Considered by the Agency and the Agency's Reasons for Rejecting Those Alternatives.**

No other alternatives were presented to or considered by the Authority.

### **6. Alternatives to the Proposed Regulatory Action that Would Lessen any Adverse Impact on Small Business.**

The Authority has not identified any alternatives nor have any alternatives otherwise been identified and brought to the attention of the Authority that would lessen any adverse impact on small businesses. In fact, the regulation may have a positive effect on small businesses by expanding the types of financing available under the Program.

### **7. Evidence Supporting Finding of No Significant Adverse Economic Impact on any Business.**

There will be no adverse economic impact on any California businesses. In fact, the regulation may have a positive effect on businesses by expanding the types of financing permissible under the Act to businesses interested in the development of brownfields.

## **SECTION 8094. LOAN APPROVAL AND COMMITMENT LETTER.**

### **1. Public Problem, Administrative Requirement or Other Condition or Circumstance that the Regulation is Intended to Address.**

Sections 44501(e), 44504.1 and 44526(h) of the Health and Safety Code permit loans to assist in financing, among other things, the costs of performing or obtaining brownfield site assessments, remedial action plans and reports, technical assistance, the cleanup, remediation, or development of brownfield sites, or any other similar or related costs, subject to all applicable federal, state, and local laws, procedures, and regulations.

### **2. Specific Purpose of the Regulation.**

Amendments to Section 8094 are necessary to enact a policy change regarding what type of projects are considered priority projects. At its inception, the Assessment Program placed a priority on projects located within Economically Distressed Communities. In December 2007 the Authority Board made a policy decision to target the program's resources beyond economically distressed communities, and create a priority system among brownfield sites on the National Priority List to ensure that funds will be targeted to sites where they will have the most effect. Specifically, "superfund" sites or sites on the National Priority List (NPL) are so large, complex and costly, that a financial award from this program would likely not have a large affect on the overall financing. Many of these sites have a viable responsible party – an entity responsible for the contamination with the financial means to conduct the cleanup. As a policy goal, the Authority will prioritize funds to sites that are non-NPL sites with viable responsible parties. This goal will target state dollars to sites where the financing will have the most affect.

This section establishes a priority system in reviewing and assessing applications. It provides the information about criteria for a Strategic Partner's approval and prioritization of Applications and awarding Loans.

**8094(a)(2)(A):** This subsection was modified to reflect the Authority's policy decision to modify the prioritization of brownfield projects. It establishes the first tier of projects as sites that are non-NPL sites and NPL sites that do not have a viable responsible party. Within this first tier, financing will be prioritized based on: first, location within an Economically Distressed Community; second, location in an area with existing Public Infrastructure; and third, other brownfield sites.

**8094(a)(2)(B):** This subsection was modified to reflect the Authority's policy decision to modify the prioritization of brownfield projects. It establishes the second tier of projects as sites that are NPL sites with a viable responsible party. Within this second tier, financing will be prioritized based on: first, location within an Economically Distressed Community; second, location in an area with existing Public Infrastructure; and third, other brownfield sites.

### **3. Necessity.**

As described above, the amendment (a)(2) is necessary to address the recent policy decision of the Authority Board to target funds to brownfields that do not have alternative sources of financing cleanup from a party responsible for the initial contamination. This policy decision is necessary to prioritize funds to sites at which the financing will make an effective difference and target these precious public resources to sites with the most need.

4. Technical, Theoretical and/or Empirical Studies, Reports or Documents.

The Authority did not rely upon any technical, theoretical or empirical studies, reports or documents in proposing the adoption of this regulation.

5. Alternatives to the Regulation Considered by the Agency and the Agency's Reasons for Rejecting Those Alternatives.

No other alternatives were presented to or considered by the Authority.

6. Alternatives to the Proposed Regulatory Action that Would Lessen any Adverse Impact on Small Business.

The Authority has not identified any alternatives nor have any alternatives otherwise been identified and brought to the attention of the Authority that would lessen any adverse impact on small businesses. In fact, the regulation may have a positive effect on small businesses by expanding the types of financing available under the Program.

7. Evidence Supporting Finding of No Significant Adverse Economic Impact on any Business.

There will be no adverse economic impact on any California businesses. In fact, the regulation may have a positive effect on businesses by expanding the types of financing permissible under the Act to businesses interested in the development of brownfields.

## **SECTION 8095. LOAN TERMS.**

### **1. Public Problem, Administrative Requirement or Other Condition or Circumstance that the Regulation is Intended to Address.**

Sections 44501(e), 44504.1 and 44526(h) of the Health and Safety Code permit loans to assist in financing, among other things, the costs of performing or obtaining brownfield site assessments, remedial action plans and reports, technical assistance, the cleanup, remediation, or development of brownfield sites, or any other similar or related costs, subject to all applicable federal, state, and local laws, procedures, and regulations.

### **2. Specific Purpose of the Regulation.**

Amendments to Section 8095 are necessary to change the interest rate used for loans under the CALReUSE brownfield assessment program and to increase the maximum amounts for loans.

**8095(a):** This subsection was modified to change the interest rate for the Loan from the State's Surplus Money Investment Fund from the prior calendar year to the Six Month London Interbank Offered Rate (LIBOR) but not less than two percent. This modification establishes a lower interest rate that will track with the overall financial market and can be referred to easily by users. These modifications were made to make the financial terms more attractive to the borrower, and to make the program more effective and increase its usage.

**8095(b):** This subsection was modified to increase the maximum loan amount from \$125,000 to \$300,000 for brownfield sites in general, and \$500,000 for projects that will result in housing. The provision also allows the Authority to waive the maximum amount of a financial award upon a finding it's in the public interest. These modifications are necessary to keep pace with the increasing cost of brownfield site assessments and new regulatory mandates, and to increase the program's effectiveness in revitalizing brownfield sites.

### **3. Necessity.**

The change in interest rate (a) is necessary to create a more user friendly interest rate that is easily accessible to interested parties and tracks with changes in the financial market. The increase in loan amounts (b) is an amendment necessary to address numerous public comments the Authority received that the current amount was not sufficient to cover continually increasing cost of brownfield site assessments and new regulatory mandates within the field, which has hindered the Program's effectiveness and usability. Both of these changes are necessary to increase the effectiveness of the Assessment Program.

### **4. Technical, Theoretical and/or Empirical Studies, Reports or Documents.**

The Authority did not rely upon any technical, theoretical or empirical studies, reports or documents in proposing the adoption of this regulation.

### **5. Alternatives to the Regulation Considered by the Agency and the Agency's Reasons for Rejecting Those Alternatives.**

No other alternatives were presented to or considered by the Authority.

### **6. Alternatives to the Proposed Regulatory Action that Would Lessen any Adverse Impact on Small Business.**

The Authority has not identified any alternatives nor have any alternatives otherwise been identified and brought to the attention of the Authority that would lessen any adverse impact on small businesses. In fact, the regulation may have a positive effect on small businesses by expanding the types of financing available under the Program.

7. Evidence Supporting Finding of No Significant Adverse Economic Impact on any Business.

There will be no adverse economic impact on any California businesses. In fact, the regulation may have a positive effect on businesses by expanding the types of financing permissible under the Act to businesses interested in the development of brownfields.

## **SECTION 8098. STRATEGIC PARTNER REPORTS AND RECORDS RETENTION.**

### **1. Public Problem, Administrative Requirement or Other Condition or Circumstance that the Regulation is Intended to Address.**

Sections 44501(e), 44504.1, 44525.7 and 44526(h) of the Health and Safety Code permit loans to assist in financing, among other things, the costs of performing or obtaining brownfield site assessments, remedial action plans and reports, technical assistance, the cleanup, remediation, or development of brownfield sites, or any other similar or related costs, subject to all applicable federal, state, and local laws, procedures, and regulations.

### **2. Specific Purpose of the Regulation.**

Amendments to Section 8098 are necessary to: clarify reporting requirements and bring consistency to the program [paragraph (a)]; conform the regulations to changes in state law since the last time the section was amended [paragraphs (a)(1)(B) and (a)(2)(B)]; and for simplifying the text of the regulation [paragraphs (a)(3)(A) and (a)(3)(B)]. The reports are designed to provide the information needed by the Authority to monitor and evaluate the program.

**8098(a):** This subsection establishes that the Strategic Partner shall provide certain quarterly reports to the Authority as described therein. This subsection is modified to add quarterly reporting due dates, and is necessary to clarify reporting requirements. The subsection is necessary to provide information to the Authority to monitor and evaluate the program and to meet the requirement of Health and Safety Code section 44525.7.

**8098(a)(1)(B):** This subsection was modified to add the term “Brownfield Projects” to create specificity and consistency with the definitions in other areas of the Regulation, and modifies the term Economically ~~Struggling~~ Distressed Communities to create consistency with the changes made to the definitions.

**8098(a)(2)(B):** This subsection was modified to add the term “Brownfield Projects” to create specificity and consistency with the definitions in other areas of the Regulation, and modifies the term Economically ~~Struggling~~ Distressed Communities to create consistency with the changes made to the definitions.

### **3. Necessity.**

These amendments are necessary to ensure that the Strategic Partners provide information on a regular scheduled basis which will enable the Authority to track the success and effectiveness of the program, and provide the statutorily required reports to the Legislature on a timely basis.

### **4. Technical, Theoretical and/or Empirical Studies, Reports or Documents.**

The Authority did not rely upon any technical, theoretical or empirical studies, reports or documents in proposing the adoption of this regulation.

### **5. Alternatives to the Regulation Considered by the Agency and the Agency’s Reasons for Rejecting Those Alternatives.**

No other alternatives were presented to or considered by the Authority.

### **6. Alternatives to the Proposed Regulatory Action that Would Lessen any Adverse Impact on Small Business.**

The Authority has not identified any alternatives nor have any alternatives otherwise been identified and brought to the attention of the Authority that would lessen any adverse impact on small businesses. In fact, the regulation may have a positive effect on small businesses by expanding the types of loans permissible under the Act in the development of brownfields.

7. Evidence Supporting Finding of No Significant Adverse Economic Impact on any Business.

There will be no adverse economic impact on any California businesses. In fact, the regulation may have a positive effect on businesses by expanding the types of loans permissible under the Act to businesses interested in the development of brownfields.

## **SECTION 8099. TECHNICAL ASSISTANCE.**

### **1. Public Problem, Administrative Requirement or Other Condition or Circumstance that the Regulation is Intended to Address.**

Sections 44501(e), 44504.1 and 44526(h) of the Health and Safety Code permit loans to assist in financing, among other things, the costs of performing or obtaining brownfield site assessments, remedial action plans and reports, technical assistance, the cleanup, remediation, or development of brownfield sites, or any other similar or related costs, subject to all applicable federal, state, and local laws, procedures, and regulations.

### **2. Specific Purpose of the Regulation.**

Modifications to Section 8099 are necessary for conformity with the establishment of the CALReUSE brownfield remediation program [paragraphs (a) and (b)]; paragraph (c) was eliminated to reduce redundancy between Section 8099 and the definition of technical assistance in Section 8091 (ah).

**8099(a):** This subsection was modified to provide clarification on the type of Technical Assistance Strategic Partners provide under the Assessment Program. Strategic Partners provide Technical Assistance in the assessment of a Brownfield Project, not the development of a brownfield.

**8099(b):** This subsection was modified to provide clarification on the type of Technical Assistance Strategic Partners provide under the Assessment Program. Strategic Partners provide Technical Assistance in the assessment of a Brownfield Project, not the development of a brownfield.

**8099(c):** This subsection was eliminated to reduce redundancy between the definition of Technical Assistance [Section 8091 (ah)] and this subsection. The information provided in both areas was duplicative.

### **3. Necessity.**

The amendment was eliminated to reduce redundancy between Section 8099 and the definition of technical assistance in Section 8091 (ah) in order to streamline the regulations and clarify provision 8099(a).

### **4. Technical, Theoretical and/or Empirical Studies, Reports or Documents.**

The Authority did not rely upon any technical, theoretical or empirical studies, reports or documents in proposing the adoption of this regulation.

### **5. Alternatives to the Regulation Considered by the Agency and the Agency's Reasons for Rejecting Those Alternatives.**

No other alternatives were presented to or considered by the Authority.

### **6. Alternatives to the Proposed Regulatory Action that Would Lessen any Adverse Impact on Small Business.**

The Authority has not identified any alternatives nor have any alternatives otherwise been identified and brought to the attention of the Authority that would lessen any adverse impact on small businesses. In fact, the regulation may have a positive effect on small businesses by expanding the types of loans permissible under the Act in the development of brownfields.

7. Evidence Supporting Finding of No Significant Adverse Economic Impact on any Business.

There will be no adverse economic impact on any California businesses. In fact, the regulation may have a positive effect on businesses by expanding the types of loans permissible under the Act to businesses interested in the development of brownfields.

## **SECTION 8101. STRATEGIC PARTNER AS APPLICANT OR BORROWER.**

### **1. Public Problem, Administrative Requirement or Other Condition or Circumstance that the Regulation is Intended to Address.**

Sections 44501(e), 44504.1 and 44526(h) of the Health and Safety Code permit loans to assist in financing, among other things, the costs of performing or obtaining brownfield site assessments, remedial action plans and reports, technical assistance, the cleanup, remediation, or development of brownfield sites, or any other similar or related costs, subject to all applicable federal, state, and local laws, procedures, and regulations.

### **2. Specific Purpose of the Regulation.**

The purpose of this section is to establish the roles of and procedures applicable to the Authority and the Strategic Partners under various scenarios, including potential conflict of interest situations.

**8101(a):** This subsection was modified to clarify and streamline the regulation to clearly explain that the Authority shall act as the Strategic Partner in conflict of interest situations.

**8101(b):** This subsection was modified, by removing the term “hereof” to streamline the regulation.

### **3. Necessity.**

The Section 8101 amendment is necessary to provide guidance to Strategic Partners on the proper administrative steps necessary to navigate and address any potential conflict of interest situations, and to ensure the proper use of public dollars. The modifications are necessary to assist the reader in reviewing the regulations in a logical manner.

### **4. Technical, Theoretical and/or Empirical Studies, Reports or Documents.**

The Authority did not rely upon any technical, theoretical or empirical studies, reports or documents in proposing the adoption of this regulation.

### **5. Alternatives to the Regulation Considered by the Agency and the Agency’s Reasons for Rejecting Those Alternatives.**

No other alternatives were presented to or considered by the Authority.

### **6. Alternatives to the Proposed Regulatory Action that Would Lessen any Adverse Impact on Small Business.**

The Authority has not identified any alternatives nor have any alternatives otherwise been identified and brought to the attention of the Authority that would lessen any adverse impact on small businesses. In fact, the regulation may have a positive effect on small businesses by expanding the types of loans permissible under the Act in the development of brownfields.

### **7. Evidence Supporting Finding of No Significant Adverse Economic Impact on any Business.**

There will be no adverse economic impact on any California businesses. In fact, the regulation may have a positive effect on businesses by expanding the types of loans permissible under the Act to businesses interested in the development of brownfields.

## **SUBARTICLE 2. ESTABLISHES THE CALREUSE REMEDIATION PROGRAM.**

### **SECTION 8102. BROWNFIELD INFILL PROJECT PROGRAM DEFINITIONS.**

#### **1. Public Problem, Administrative Requirement or Other Condition or Circumstance that the Regulation is Intended to Address.**

Health and Safety Code Section 53545.14 mandates that the Authority *shall administer grants or loans...under the CALReUSE program...for the purpose of brownfield cleanup that promotes infill residential and mixed-use development, consistent with regional and local land use plans.* The establishment of these definitions will ensure a clear and transparent process for governing the Remediation Program.

#### **2. Specific Purpose of the Regulation.**

The new Section 8102 establishes definitions to govern construction of SubArticle 2, Article 9.

**8102(a):** This subsection establishes that “Brownfield Infill Project” means a project that meets certain conditions defined therein. This definition is necessary to clarify the meaning of the term used in the regulation text.

**8102(b):** This subsection establishes that “Brownfield Remediation Completion Document” means a written document that meets certain conditions defined therein. This definition is necessary to clarify the meaning of the term used in the regulation text.

**8102(c):** This subsection establishes that “Brownfield Remediation Final Report” means a written document that meets certain conditions defined therein. This definition is necessary to clarify the meaning of the term used in the regulation text.

**8102(d):** This subsection establishes that “Completed Infill Development Project” means a project that meets certain conditions defined therein. This definition is necessary to clarify the meaning of the term used in the regulation text.

**8102(e):** This subsection establishes that “Completed Infill Development Project Report” means a report that meets certain conditions defined therein. This definition is necessary to clarify the meaning of the term used in the regulation text.

**8102(f):** This subsection establishes that “Eligible Brownfield Infill Project Cost” means any of the costs identified therein. This definition is consistent with Health and Safety Code Section 44526(h)(1) and 53545.14 and is necessary to clarify the meaning of the term used in the regulation text.

**8102(g):** This subsection establishes that “Grantee” means an Applicant whose Infill Application has been approved and who has executed an Infill Grant Agreement. This definition is necessary to differentiate between the person or entity that is applying for a grant and the person or entity that receives an Infill Grant.

**8102(h):** This subsection establishes that “Infill Application” means the information an Applicant provides to the Strategic partner when seeking an Infill Grant or Loan under Section 8102.2. This definition is necessary to clarify the information requirements to qualify for an Infill Grant or Infill Loan under Health and Safety Code sections 44526(h) and 44526(h)(5).

**8102(i):** This subsection establishes that “Infill Area” means a previously developed contiguous area that meets certain conditions. This definition is necessary to clarify the meaning of the term

used in the regulation text and to ensure compliance with Health and Safety Code section 53545.14.

**8102(j):** This subsection establishes that “Infill Development Project” means a development project within an Infill Area that meets certain conditions. This definition is necessary to clarify the meaning of the term used in the regulation text.

**8102(k):** This subsection establishes that “Infill Grant” means a grant made in accordance with the procedures set forth in these regulations. This definition is necessary to assist the reader in reviewing the regulation or statute in a logical manner.

**8102(l):** This subsection establishes that “Infill Grant Agreement” means the written document between an Applicant and a Strategic Partner made in accordance with these regulations. This definition is necessary to clarify the meaning of the term used in the regulation text.

**8102(m):** This subsection establishes that “Infill Loan” means a loan made in accordance with the procedures set forth in these regulations. This definition is necessary to assist the reader in reviewing the regulation or statute in a logical manner.

**8102(n):** This subsection establishes that “Infill Loan Agreement” means the written document between an Applicant and a Strategic Partner made in accordance with these regulations. This definition is necessary to clarify the meaning of the term used in the regulation text.

**8102(o):** This subsection establishes that “Ineligible Brownfield Infill Project Costs” means any of the costs identified therein. This definition is consistent with health and Safety Code section 44526(h)(1) and prohibits costs not specific to the Cleanup Plan. The definition is necessary to clarify the meaning of the term used in the regulation text and to ensure proper conduct under the Program.

**8102(p):** This subsection establishes that “Mixed Use Development” means a development project that meets certain conditions. This definition is necessary to clarify the meaning of the term used in the regulation text and to ensure compliance with Health and Safety Code section 53545.14.

**8102(q):** This subsection establishes that “Ongoing Operation and Maintenance” means those activities initiated or continued at a Brownfield Infill Project as set forth in these regulations. This definition is necessary to clarify the meaning of the term used in the regulation text.

**8102(r):** This subsection establishes that “Promotes Infill Residential Development or Mixed use Development” means an Infill Development Project that meets certain conditions. This definition is necessary to clarify the meaning of the term used in the regulation text and to ensure compliance with Health and Safety Code section 53545.14.

**8102(s):** This subsection establishes that “Recorded Covenant” means a covenant recorded on an infill Brownfield Development Project that meets certain conditions. This definition is necessary to clarify the meaning of the term used in the regulation text.

**8102(t):** This subsection establishes that “Regional and Local Land Use Plan(s)” means any one or more of the plans identified therein. This definition is necessary to verify that potential projects are eligible and are consistent with the program’s statutory authority and mandate.

**8102(u):** This subsection establishes that “Regulatory Agreement” means a recorded legal agreement between the Applicant and a public agency that meets certain conditions. This definition is necessary to clarify the meaning of the term used in the regulation text.

**8102(v):** This subsection establishes that “Remedial Work” means the performance of the activities identified therein. This definition is necessary to clarify the meaning of the term used in the regulation text.

**8102(w):** This subsection establishes that “Residential Development” means a project that meets certain conditions. This definition is necessary to clarify the meaning of the term used in the regulation text and to ensure compliance with Health and Safety Code section 53545.14.

**8102(x):** This subsection establishes the definition of “Responsible Party.” This definition is necessary to conform to Federal Statute and to clarify the meaning of the term used in the regulation text under the Program.

**8102(y):** This subsection establishes that “Supplemental Infill Application” means the provision of required information not previously submitted with the application. This definition is necessary to clarify the meaning of the term used in the regulation text.

3. Necessity.

The addition of Section 8102 is necessary to govern the interpretation and administration of Article 9, SubArticle 2.

4. Technical, Theoretical and/or Empirical Studies, Reports or Documents.

The Authority did not rely upon any technical, theoretical or empirical studies, reports or documents in proposing the adoption of this regulation.

5. Alternatives to the Regulation Considered by the Agency and the Agency’s Reasons for Rejecting Those Alternatives.

No other alternatives were presented to or considered by the Authority. The addition of the regulation is necessary to conform the regulation to the statute, as amended.

6. Alternatives to the Proposed Regulatory Action that Would Lessen any Adverse Impact on Small Business.

The Authority has not identified any alternatives nor have any alternatives otherwise been identified and brought to the attention of the Authority that would lessen any adverse impact on small businesses. In fact, the regulation may have a positive effect on small businesses by expanding the types of financing available under the Program.

7. Evidence Supporting Finding of No Significant Adverse Economic Impact on any Business.

There will be no adverse economic impact on any California businesses. In fact, the regulation may have a positive effect on businesses by expanding the types of financing permissible under the Act to include loans and grants to businesses interested in the development of brownfields.

## **§ 8102.1. INFILL GRANT AND INFILL LOAN ELIGIBILITY.**

### **1. Public Problem, Administrative Requirement or Other Condition or Circumstance that the Regulation is Intended to Address.**

Health and Safety Code Section 53545.14 mandates that the Authority *shall administer grants or loans...under the CALReUSE program...for the purpose of brownfield cleanup that promotes infill residential and mixed-use development, consistent with regional and local land use plans.*

### **2. Specific Purpose of the Regulation.**

Section 8102.1 establishes the criteria for eligibility of financing consideration. The criteria will ensure, among other things, eligibility of the brownfield, eligibility of the development project, eligibility of the costs proposed for financing and eligibility of the borrower. The information requested is threshold criteria to ensure the Applicant and Brownfield Infill Project represent an effective investment for state funds. These requirements are necessary to be consistent and conform to statute, Health and Safety Code sections 53545.14, 44501(e)(1), 44526(h)(1), 44526(h)(2) and 44526(i).

**8102.1(a):** This subsection outlines the specific threshold criteria for an applicant/application to be considered for financing.

**8102.1(a)(1):** This subsection establishes that an Applicant must submit an Application that meets certain requirements described in the regulations. This requirement is necessary to clarify the type of information needed to qualify for the program.

**8102.1(a)(2):** This subsection establishes that the Applicant must propose a Brownfield Infill Project that meets the statutory criteria of being located within an Infill Area. This requirement is necessary to identify the types of projects that will qualify for the program.

**8102.1(a)(3):** This subsection established that the Applicant must submit a Remedial Action Plan or Cleanup Plan that has been approved by an appropriate Oversight Agency. This is necessary because an *approved* cleanup plan is an indicator of project readiness and environmental feasibility.

**8102.1(a)(4):** This subsection requires that applicants submit an All Appropriate Inquiries (AAI) in compliance with the requirements of Title 40, Part 312 of the Code of Federal Regulations to be eligible for consideration. Conducting an AAI will assist in ensuring that the borrower has conducted adequate environmental due diligence and a thorough environmental assessment of the Brownfield Infill Project. An AAI will assist in developing an accurate Cleanup Plan, specific to both the scope of Remedial Work and an accurate estimate of Eligible Brownfield Infill Project Costs.

**8102.1(a)(5):** This subsection establishes that a financial request must meet certain requirements further described in the regulations. This section is necessary to make sure that the Brownfield Infill Project and Eligible Brownfield Infill Projects Costs meet program requirements as defined in the regulations.

**8102.1(a)(6):** This subsection establishes that the Applicant must demonstrate the ability to develop the Brownfield. This requirement is necessary to verify that a Applicant is capable of developing the property and Promotes Infill Residential or Mixed Use Development, the ultimate goal of the program, and is consistent with Health and Safety Code sections 53545.14, 44501(e)(1), 44526(h)(2) and 44526(i).

**8102.1(a)(7):** This subsection establishes that the Applicant has the financial means to finance the total cost of the Brownfield Infill Project. This requirement is necessary to be consistent make sure that the Applicant completes the Brownfield Infill Project. This subsection also establishes that if the Applicant is the recipient of an Infill Loan, the Applicant has the means to repay the Infill Loan.

**8102.1(a)(8):** This subsection establishes that the Applicant demonstrates that the Infill Development Project meets the program eligibility thresholds.

**8102.1(a)(9):** This subsection establishes that the Infill Development Projects is consistent with Regional and Local Land Use plans. This requirement is necessary to ensure the program meets its statutory mandate pursuant to Health and Safety Code section 53545.14.

**8102.1(a)(10):** This subsection establishes that the Applicant must demonstrate the financial wherewithal to develop the Infill Development Project. This requirement is necessary to make sure that funds are designated to projects with the highest potential for development and is consistent with Health and Safety Code sections 53545.14, 44526(h)(2) and 44526(i).

**8102.1(a)(11):** This subsection establishes that a qualified Applicant shall not have been convicted of a felony or misdemeanor involving the regulation of Hazardous Materials. This requirement is necessary to verify the integrity of the Applicant with respect to environmental laws.

**8102.1(a)(12):** This subsection establishes that an Applicant's prior or current legal issues may not materially affect the Applicant's integrity or ability to complete the project. This requirement is necessary to make sure that the Applicant can complete the Brownfield Infill Project.

**8102.1(b):** This subsection clearly establishes that the determination of an Applicant meeting the threshold eligibility criteria does not constitute the approval of a financial request. All financial awards are decided by the Authority's board. This provision is necessary to ensure Applicants have a clear understanding of the decision making process.

### 3. Necessity.

The new Section 8102.1 will establish the criteria for eligibility of a grant or loan. The criteria will determine, among other things, eligibility of the brownfield, eligibility of the project, eligibility of the costs proposed for financing and eligibility of the borrower. These criteria are necessary to ensure an effective financial investment of state monies and that the Infill Development Projects meets the statutory requirements determined by the regulations and Health and Safety Code sections 53545.14, 44526(h)(2) and 44526(i).

### 4. Technical, Theoretical and/or Empirical Studies, Reports or Documents.

The Authority did not rely upon any technical, theoretical or empirical studies, reports or documents in proposing the adoption of this regulation.

### 5. Alternatives to the Regulation Considered by the Agency and the Agency's Reasons for Rejecting Those Alternatives.

No other alternatives were presented to or considered by the Authority. The addition of the regulation is necessary to conform the regulation to the statute.

6. Alternatives to the Proposed Regulatory Action that Would Lessen any Adverse Impact on Small Business.

The Authority has not identified any alternatives nor have any alternatives otherwise been identified and brought to the attention of the Authority that would lessen any adverse impact on small businesses. In fact, the regulation may have a positive effect on small businesses by expanding the types of financing available under the Program.

7. Evidence Supporting Finding of No Significant Adverse Economic Impact on any Business.

There will be no adverse economic impact on any California businesses. In fact, the regulation may have a positive effect on businesses by expanding the types of financing permissible under the Act to include loans and grants to businesses interested in the development of brownfields.

## **SECTION 8102.2. INFILL APPLICATION CONTENT.**

### **1. Public Problem, Administrative Requirement or Other Condition or Circumstance that the Regulation is Intended to Address.**

Health and Safety Code Section 53545.14 mandates that the Authority *shall administer grants or loans...under the CALReUSE program...for the purpose of brownfield cleanup that promotes infill residential and mixed-use development, consistent with regional and local land use plans.*

### **2. Specific Purpose of the Regulation.**

Section 8102.2 sets forth the information that must be submitted by an Applicant in order to request an Infill Grant or Infill Loan. These requirements are necessary to implement the program and to conform the regulation to statute.

**8102.2(a):** This subsection requires certain demographic information about the Applicant. This information is necessary to identify and contact the Applicant, conduct the financial underwriting of the project and to be consistent with Health and Safety Code sections 53545.14, 44526(h)(1), 44526(h)(2), and 44526(i).

**8102.2(b):** This subsection establishes whether the Applicant is applying for an Infill Grant and/or Infill Loan. This information is necessary to identify whether the Applicant qualifies for the grant or loan applied for and to be consistent with Health and Safety Code sections 53545.14, 44526(h)(1), 44526(h)(2), and 44526(i).

**8102.2(c):** This subsection requires certain demographic information about the owner and/or operator of the Brownfield in order to determine the Applicant's role with respect to the Brownfield, and ultimate ability to complete the Brownfield Infill Project and Infill Development Project. This requirement is necessary to be consistent with Health and Safety Code sections 53545.14, 44526(h)(2) and 44526(i).

**8102.2(d):** This subsection requires that if the Applicant is not the owner of the Brownfield, that the Applicant must demonstrate its legal authority to access the Brownfield. This requirement is necessary to ensure that the Applicant can complete the Brownfield Infill Project and Infill Development Project and to be consistent with Health and Safety Code sections 53545.14, 44526(h)(1), 44526(h)(2), 44526(i).

**8102.2(e):** This subsection requires specific information regarding the Oversight Agency and Cleanup Plan. This requirement is necessary to ensure that the Applicant has a current relationship with the appropriate Oversight Agency for the Brownfield Infill Project, and meets the basic technical environmental requirements of 1) submitted a Cleanup Plan to the Oversight Agency for approval and 2) caused an AAI to be conducted on the site. The Applicant's submittal of this information is necessary to ascertain that the Applicant meets basic threshold criteria and the project readiness of a Brownfield Infill Project.

**8102.2(f):** This subsection requires that the Applicant provide certain information identified therein about the Brownfield for which the Infill Grant or Infill Loan is being requested. This requirement is necessary to (1) determine project priority, (2) gain an initial understanding of environmental issues related to the property, and (3) to understand the development potential of the property that will be the subject of an Infill Loan or Infill Grant consistent with Health and Safety Code sections 53545.14, 44526(h)(2), 44526(h)(3)(A), 44526(i), and 44537.5.

**8102.2(g):** This subsection requires that the Applicant provide a description of Applicant's experience managing similar projects. This requirement is necessary to make sure that an Applicant can complete the Brownfield Project and to be consistent with Health and Safety Code sections 53545.14, 44526(h)(2) and 44526(i).

**8102.2(h):** This subsection requires that the Applicant provide identification and certain information contained therein of the primary persons responsible for completing the Brownfield Infill Project. This requirement is necessary to verify that those who will be overseeing and performing the work meet the requirements of these regulations and to be consistent with Health and Safety Code sections 53545.14, 44526(h) and 44526(i).

**8102.2(i):** This subsection requires that the Applicant identify potential funding sources for all development activities for the Brownfield Infill Project, Infill Development Project, and if applicable the repayment of an Infill Loan. This requirement is necessary to make sure that the Applicant has the wherewithal to complete the project, that the project is viable, and is consistent with Health and Safety Code sections 53545.14, 44526(h)(2) and 44526(i).

**8102.2(j):** This subsection requires that the Applicant identify the type(s) of Eligible Brownfield Infill Project Costs that are proposed to be financed by the Infill Grant or Infill Loan. This requirement is necessary to verify that an Applicant uses funds for eligible costs as defined in the regulations and to be consistent with Health and Safety Code sections 53545.14, 44526(h)(1), 44526(h)(2) and 44526(i).

**8102.2(k):** This subsection establishes the amount and term of the Applicant's Infill Grant or Infill Loan request. This requirement is consistent with standard lending practices and is necessary to be consistent with Health and Safety Code sections 53545.14, 44526(h)(1), 44526(h)(2), 44526(h)(3) and 44526(i).

**8102.2(l):** This subsection requires that the Applicant disclose certain legal information with respect to itself. This requirement is necessary to verify that the Applicant has no outstanding legal or integrity issues that call into question the Applicant's ability to fulfill the requirements of a financial award. It is also consistent with standard lending practices and is necessary to be consistent with Health and Safety Code sections 53545.14, 44526(h)(2) and 44526(i).

**8102.2(m):** This subsection requires the Applicant to submit a notarized statement whereby the Applicant agrees to adhere to certain processes concerning the Applicant's Application. This requirement is consistent with standard lending practices. This requirement is necessary to be consistent with Health and Safety Code sections 44526(h)(2) and 44526(i).

### 3. Necessity.

The addition of Section 8102.2 identifies the information required to be submitted by the applicant that the Authority deems necessary to effectively ensure that the applicant/project is eligible under statute, meets the policy goals established by the Authority, and to provide the necessary financial information by which to adequately base underwriting decisions.

### 4. Technical, Theoretical and/or Empirical Studies, Reports or Documents.

The Authority did not rely upon any technical, theoretical or empirical studies, reports or documents in proposing the adoption of this regulation.

### 5. Alternatives to the Regulation Considered by the Agency and the Agency's Reasons for Rejecting Those Alternatives.

No other alternatives were presented to or considered by the Authority. The addition of the regulation is necessary to conform the regulation to the statute, as amended.

6. Alternatives to the Proposed Regulatory Action that Would Lessen any Adverse Impact on Small Business.

The Authority has not identified any alternatives nor have any alternatives otherwise been identified and brought to the attention of the Authority that would lessen any adverse impact on small businesses. In fact, the regulation may have a positive effect on small businesses by expanding the types of financing available under the Program.

7. Evidence Supporting Finding of No Significant Adverse Economic Impact on any Business.

There will be no adverse economic impact on any California businesses. In fact, the regulation may have a positive effect on businesses by expanding the types of financing permissible under the Act to include loans and grants to businesses interested in the development of brownfields.

## **SECTION 8102.3    INFILL APPLICATION AVAILABILITY, SUBMISSION AND STRATEGIC PARTNER REVIEW**

### **1. Public Problem, Administrative Requirement or Other Condition or Circumstance that the Regulation is Intended to Address.**

Health and Safety Code Section 53545.14 mandates that the Authority *shall administer grants or loans...under the CALReUSE program...for the purpose of brownfield cleanup that promotes infill residential and mixed-use development, consistent with regional and local land use plans.*

### **2. Specific Purpose of the Regulation.**

The new Section 8102.3 establishes a process for obtaining, submitting and reviewing an application to the Program.

**8102.3(a):** This subsection provides information about how those persons interested in applying for an Infill Grant or Infill Loan may obtain and submit infill application information. This subsection is necessary to ensure potential applicants may obtain accurate information in a timely manner.

**8102.3(b):** This subsection provides information about where to submit information required in an Infill Application. This subsection is necessary to provide direction to Strategic Partners and Applicants concerning the Application submission process.

**8102.3(c):** This subsection establishes that the Application must meet certain requirements described in the regulations. This requirement is necessary to clarify the type of information needed to qualify for the program.

**8102.3(d):** This subsection establishes that upon receipt of an Infill Application, the Strategic Partner will review the Application for completeness and eligibility. This subsection also establishes (1) a timeframe for determining whether the Infill Application is complete, (2) a procedure for notifying the Applicant whether the Infill Application is approved, denied or incomplete and (3) additional instructions concerning denied or incomplete Infill Applications. This subsection is necessary to establish standard procedures in the loan underwriting process and to prescribe a reasonable period of time for the Strategic Partner to review the Infill Application and complete a due diligence assessment of the Infill Loan Application received. It also establishes standard procedures for a Strategic Partner to assist an Applicant to complete its Infill Application.

**8102.3(e):** This subsection sets forth conditions under which a Supplemental Infill Application is required and provides information concerning submission requirements. This subsection is necessary to provide guidance to the Applicant, and to create a streamlined process for those who utilize both the Assessment Program and the Remediation Program.

### **3. Necessity.**

The addition of Section 8102.3 is necessary to provide potential applicants and Strategic Partners with the necessary timelines, guidelines and procedures for submitting and reviewing the applications in order to implement the Program, and administer the Program uniformly across the state and among Strategic Partners.

### **4. Technical, Theoretical and/or Empirical Studies, Reports or Documents.**

The Authority did not rely upon any technical, theoretical or empirical studies, reports or documents in proposing the adoption of this regulation.

5. Alternatives to the Regulation Considered by the Agency and the Agency's Reasons for Rejecting Those Alternatives.

No other alternatives were presented to or considered by the Authority. The addition of the regulation is necessary to conform the regulation to the statute, as amended.

6. Alternatives to the Proposed Regulatory Action that Would Lessen any Adverse Impact on Small Business.

The Authority has not identified any alternatives nor have any alternatives otherwise been identified and brought to the attention of the Authority that would lessen any adverse impact on small businesses. In fact, the regulation may have a positive effect on small businesses by expanding the types of financing available under the Program.

7. Evidence Supporting Finding of No Significant Adverse Economic Impact on any Business.

There will be no adverse economic impact on any California businesses. In fact, the regulation may have a positive effect on businesses by expanding the types of financing permissible under the Act to include loans and grants to businesses interested in the development of brownfields.

## SECTION 8102.4 INFILL GRANTS AND INFILL LOANS

### 1. Public Problem, Administrative Requirement or Other Condition or Circumstance that the Regulation is Intended to Address.

Health and Safety Code Section 53545.14 mandates that the Authority *shall administer grants or loans...under the CALReUSE program...for the purpose of brownfield cleanup that promotes infill residential and mixed-use development, consistent with regional and local land use plans.*

### 2. Specific Purpose of the Regulation.

The new Section 8102.4 establishes eligibility and criteria for receiving a grant, eligibility and criteria for receiving a loan, and outlines specific terms of funding. These requirements are necessary to be consistent with Health and Safety Code sections 53545.14, 44501(e)(1), 44526(h)(1), 44526(h)(2) and 44526(i).

**8102.4(a):** This subsection establishes the minimum and maximum amount for Infill Grants or Infill Loans. This subsection is necessary based on standard lending practices to identify the terms and conditions of the financial award in writing. The maximum amount of the award – \$5 million – is necessary to balance the need of financing multiple projects across the state while also providing enough funding to a particular project to adequately cleanup complex sites. The minimum amount is necessary to ensure the program is cost effective – that it does not cost more to administer a specific financial award than the amount of the financial award itself.

**8102.4(b):** This subsection establishes threshold criteria to be eligible for an Infill Grant as described therein. Eligibility is not based on the type of applicant (non-profit, for profit, government entity), but on the ultimate public benefits of the proposed Infill Development Project. These threshold criteria were established in consultation with Department of Housing and Community Development and are consistent with criteria established in the authorizing statute. The criteria reflect the state’s larger policy goals of developing affordable housing at higher densities.

**8102.4(c):** This subsection establishes alternative threshold criteria for grant eligibility as described therein. These criteria establish additional public benefits or project characteristics an Infill Development project may meet to be eligible for a grant. These criteria are necessary to ensure that those developments that create a high level of public good may receive the most beneficial financial award. The criteria described therein are consistent with the type of incentive financing conducted by the California Tax Credit Allocation Committee (TCAC) and the Department of Housing and Community Development (HCD) – the state’s predominant housing financing entities.

**8102.4(d):** This subsection establishes that Infill Grants shall not be awarded to any Responsible Party. This provision is necessary to ensure that a grant or “free money” is not awarded to an individual or entity that is responsible for the contamination of Hazardous Material at the specific Brownfield Infill Project. This exclusion does not penalize the owner of a brownfield site. This provision is consistent with a Responsible Party as defined pursuant to 42 U.S.C. Sections 9607(a)(2), 9607(a)(3), and 9607(a)(4).

**8102.4(e):** This subsection establishes the Strategic Partner’s prioritization of Applications for the awarding of Infill Grants. This prioritization is consistent the Assessment Program as outlined in Section 8094(a)(2) and is necessary to reach the policy goal of targeting state

resources to those sites that do not have a viable responsible party, e.g. an alternative funding source responsible for the cleanup of the brownfield site.

**8102.4(f):** This subsection establishes the interest rate for the Loan. This requirement is necessary based on standard lending practices to identify the terms and conditions of the loan in writing. The interest rate is set at the Six Month London Interbank Offer Rate (LIBOR) and not less than 2 percent because it a) is an interest rate typically used in the financial markets, b) provides a lower interest rate than other comparative indexes and c) will reflect market changes. This provision also enables any applicant that is eligible for an Infill Grant to opt for an Infill Loan, which is necessary to provide the most user-friendly financing method as possible, specifically to address the complicated financial structures of affordable housing developments.

**8102.4(g):** This subsection establishes certain provisions for converting an Infill Loan to an Infill Grant as described therein. This provision is necessary to provide user-flexibility for those sites at which the final Infill Development Project remains unknown or may have a variety of contingencies. This provision is necessary because the Remediation Program targets its financing during the pre-development phase. During this pre-development phase numerous funding sources – and the affordability thresholds tied to these funding sources – may not be awarded or may be pending an award. This may be the case for numerous TCAC, HCD and Federal Department of Housing and Urban Development projects. With these funding sources the applicant may be able to develop a project with the necessary public benefits to meet the grant threshold criteria; however, the brownfield funding should not be contingent on receiving such an award. This provision enables the Program to have the necessary flexibility; enables an applicant to apply for a loan to secure funding; and allows that a loan is eligible to convert to a grant upon proof that the ultimate Infill Development Project meets the Infill Grant eligibility criteria.

**8102.4(h):** This subsection establishes that if the Infill Development Project does not itself create housing units, but does meet the eligibility criteria of an Infill Development Project that Promotes Infill Residential or Mixed Use Development then the project will be eligible for the financial terms – a grant or a loan – of the specific housing the Infill Development Project is related to and necessary for. This provision is necessary because the eligibility to receive a specific financial award – an Infill Grant or an Infill Loan – is based on the characteristic of the Infill Development Project. It establishes that if the Infill Development Project is not in and of itself housing (e.g. a park or community center), the financial award will be based on the housing the project is linked to. This provision is necessary to address the financing terms of those projects that “promote” housing and mixed use development pursuant to Health and Safety Code section 53545.14.

**8102.4(i):** This subsection establishes that the Authority will place a lien on the property during the time of its financial award. This is a typical structure in the financial industry and by its design will not interfere with other financing the applicant may receive. The lien is necessary as collateral for the financial award and to assist in ensuring the borrower will act in good faith throughout the term of the agreement.

### 3. Necessity.

The new Section 8102.4 is necessary to outline the threshold project criteria for receiving a grant or loan under the program. The eligibility criteria established ensure that the more favorable

financing terms (grants) are targeted to those projects that produce the most public benefits and that all projects financed conform to statutory requirements.

4. Technical, Theoretical and/or Empirical Studies, Reports or Documents.

The Authority did not rely upon any technical, theoretical or empirical studies, reports or documents in proposing the adoption of this regulation.

5. Alternatives to the Regulation Considered by the Agency and the Agency's Reasons for Rejecting Those Alternatives.

No other alternatives were presented to or considered by the Authority. The addition of the regulation is necessary to conform the regulation to the statute, as amended.

6. Alternatives to the Proposed Regulatory Action that Would Lessen any Adverse Impact on Small Business.

The Authority has not identified any alternatives nor have any alternatives otherwise been identified and brought to the attention of the Authority that would lessen any adverse impact on small businesses. In fact, the regulation may have a positive effect on small businesses by expanding the types of financing available under the Program.

7. Evidence Supporting Finding of No Significant Adverse Economic Impact on any Business.

There will be no adverse economic impact on any California businesses. In fact, the regulation may have a positive effect on businesses by expanding the types of financing permissible under the Act to include loans and grants to businesses interested in the development of brownfields.

## SECTION 8102.5 INFILL GRANT AND INFILL LOAN APPROVAL

### 1. Public Problem, Administrative Requirement or Other Condition or Circumstance that the Regulation is Intended to Address.

Health and Safety Code Section 53545.14 mandates that the Authority *shall administer grants or loans...under the CALReUSE program...for the purpose of brownfield cleanup that promotes infill residential and mixed-use development, consistent with regional and local land use plans.*

### 2. Specific Purpose of the Regulation.

The new Section 8102.5 establishes a process for approval of applications and for notification to applicants. These requirements are necessary to be consistent with Health and Safety Code sections 53545.14, 44501(e)(1), 44526(h)(1), 44526(h)(2) and 44526(i).

**8102.5(a):** This subsection provides information about the specific requirement prior to the Authority’s consideration of an Infill Application as described therein. This subsection is necessary to provide direction to Strategic Partners and Applicants concerning the Infill Grant and Infill Loan approval process and basic threshold criteria.

**8102.5(b):** This subsection establishes that an Applicant may submit an Infill Application prior to its Remedial Action Plan or Cleanup Plan being approved by the Oversight Agency; and if a funding request is ultimately approved, the Infill Loan and/or Infill Grant can reimburse costs from the date the Infill Application was deemed “complete.” This subsection is necessary to ensure the Remediation Program is effective and as flexible as possible to address the real world constraints, costs, and uncertainty of the brownfield revitalization industry.

**8102.5(c):** This subsection establishes that if an Infill Application is approved by the Authority, the Strategic Partner shall notify an Applicant in writing of the Authority’s commitment to fund the Infill Loan or Infill Grant and of certain minimum terms and conditions of the funding commitment as described therein. This subsection is necessary to (1) notify the Applicant of the terms and conditions of the Infill Grant and/or Infill Loan commitment and (2) set forth certain minimum required terms and conditions of the Infill Grant and/or Infill Loan commitment.

### 3. Necessity.

Section 8102.5 is necessary to establish the specific criteria, requirements and procedures for the Infill Grant and Infill Loan approval process. The criteria, requirements and procedures established therein are necessary to balance the state’s need to ensure that public funds will be allocated to projects that are “ready” or will produce housing in a timely manner with the practical complications that are typical within the brownfield revitalization industry. This section is necessary to implement the program and ensure conformity to statute.

### 4. Technical, Theoretical and/or Empirical Studies, Reports or Documents.

The Authority did not rely upon any technical, theoretical or empirical studies, reports or documents in proposing the adoption of this regulation.

### 5. Alternatives to the Regulation Considered by the Agency and the Agency’s Reasons for Rejecting Those Alternatives.

No other alternatives were presented to or considered by the Authority. The addition of the regulation is necessary to conform the regulation to the statute, as amended.

6. Alternatives to the Proposed Regulatory Action that Would Lessen any Adverse Impact on Small Business.

The Authority has not identified any alternatives nor have any alternatives otherwise been identified and brought to the attention of the Authority that would lessen any adverse impact on small businesses. In fact, the regulation may have a positive effect on small businesses by expanding the types of financing available under the Program.

7. Evidence Supporting Finding of No Significant Adverse Economic Impact on any Business.

There will be no adverse economic impact on any California businesses. In fact, the regulation may have a positive effect on businesses by expanding the types of financing permissible under the Act to include loans and grants to businesses interested in the development of brownfields.

## **SECTION 8102.6 INFILL GRANT AND INFILL LOAN TERMS**

### **1. Public Problem, Administrative Requirement or Other Condition or Circumstance that the Regulation is Intended to Address.**

Health and Safety Code Section 53545.14 mandates that the Authority *shall administer grants or loans...under the CALReUSE program...for the purpose of brownfield cleanup that promotes infill residential and mixed-use development, consistent with regional and local land use plans.*

### **2. Specific Purpose of the Regulation.**

The new Section 8102.6 establishes the terms and conditions of the grants and loans, including the length of the terms, default provisions, and certifications and requirements required of the applicant. These requirements are necessary to implement the program and be consistent with Health and Safety Code sections 53545.14, 44501(e)(1), 44526(h)(1), 44526(h)(2) and 44526(i).

**8102.6(a):** This subsection establishes the specific terms and conditions of an Infill Grant or Infill Loan as described therein. This subsection is necessary to establish the minimum terms and conditions of the loans and grants and to be consistent with Health and Safety Code sections 53545.14, 44501(e)(1), 44526(h)(1), 44526(h)(2) and 44526(i).

**8102.6(a)(1):** This subsection establishes that an Oversight Agency must approve the Cleanup Plan for the Brownfield Infill Project prior to the disbursement of any funds. This is necessary to ensure a legally authorized regulatory agency is regulating the Remedial Work. This requirement is an indicator of readiness as well as indication that the site will meet the environmental standards of the Oversight Agency.

**8102.6(a)(2):** This subsection requires that the first draw on funds must take place within the first twelve months of the Infill Grant or Infill Loan. This is necessary to ensure the project is completed within the term of the financial agreement.

**8102.6(a)(3):** This subsection establishes that the term of the Infill Loan and Infill Grant shall not exceed 6 years from the first draw on the financial award. This requirement is necessary based on standard lending practices to identify the terms and conditions of the financial agreement in writing.

**8102.6(a)(4):** The subsection established that extensions on the term of an Infill Grant or Infill Loan may be extended as much as two years as set forth in section 8102.8. This requirement is necessary based on standard lending practices to identify the terms and conditions of the financial agreement in writing.

**8102.6(a)(5):** This subsection establishes that the Infill Loan Agreement and Infill Grant Agreement shall contain certain disbursement and repayment procedures pursuant to section 8102.7 of these regulations. This requirement is necessary based on standard lending practices to identify the terms and conditions of the financial agreement in writing.

**8102.6(a)(6):** This subsection establishes that any authorized funds unused by the Borrower or Grantee shall revert to the Authority. This requirement is necessary to make sure that the funds are being effectively utilized, and will be unencumbered to finance additional projects.

**8102.6(a)(7):** This subsection requires that the Borrower or Grantee will certify that the Infill Development Project meets the eligibility requirements of section 8102.1(a) and includes a description consistent with 8102.2(f)(2). This is necessary to be consistent with the Authority's

standard lending practices and identify the terms of the financial agreement in writing, and for the Program to remain in compliance with statute.

**8102.6(a)(8):** This subsection requires the Borrower or Grantee to agree to provide a copy of the Completed Infill Development Project Report. This requirement is necessary to make sure that all work ends in a final product; and to ensure the Authority has accurate information to both assess the effectiveness of the program and to provide accurate reports to the Legislature pursuant to statute.

**8102.6(a)(9):** This subsection requires the Borrower or Grantee to agree to comply with the Authority's program statutes and regulations. This requirement is necessary to verify that the Borrower or Grantee understands and meets all program requirements and to require compliance as a term of the financial agreement.

**8102.6(a)(10):** This subsection requires the Borrower or Grantee to agree to comply with all laws and regulations applicable to the Infill Development Project and the Brownfield Infill Project. This subsection is necessary to make sure that the Borrower or its agent remains in good standing throughout the term of the financial award and will comply with all such laws.

**8102.6(a)(11):** This subsection requires that the Borrower or Grantee comply with the California Environmental Quality Act throughout the term of the financial award. This is necessary to ensure the Borrower or Grantee remains in good standing with the state's environmental law.

**8102.6(a)(12):** This subsection establishes that the Borrower or Grantee will only use Infill Grant or Infill Loan proceeds for Eligible Brownfield Infill Project Costs. This is necessary to be consistent with the Authority's standard lending practices and identify the terms of the financial agreement in writing.

**8102.6(a)(13):** This subsection requires the Borrower or Grantee will work with the Oversight Agency identified in the financial agreement. This is necessary to ensure the Brownfield Infill Project is regulated by an appropriate legal entity.

**8102.6(a)(14):** This subsection establishes that the Borrower or Grantee will maintain any and all required insurance policies for the term of the financial agreement. This is necessary to be consistent with the Authority's standard lending practices and identify the terms of the financial agreement in writing.

**8102.6(a)(15):** This subsection requires the Borrower or Grantee to indemnify the Authority and the State and its employees and agents from certain claims and losses. This subsection is necessary to protect the above-mentioned from claims and losses caused by the Borrower, Grantee, or its agent with respect to the Brownfield and/or the Brownfield Infill Project.

**8102.6(a)(16):** This subsection requires the Borrower or Grantee to comply with laws outlawing discrimination. This subsection is necessary to provide conformity by participants in the program with current state laws concerning discrimination.

**8102.6(a)(17):** This subsection requires the Borrower or Grantee to agree that continued compliance with the Authority's program requirements is the Borrower or Grantee's responsibility. This requirement is necessary to make sure that the Borrower or Grantee continues to meet all program requirements.

**8102.6(a)(18):** This subsection requires the Borrower or Grantee to timely provide all required reports to the Strategic Partner. This is necessary for the Strategic Partners and the Authority to

have the ability to assess the project and timely produce information in legislative reports as required by statute and other agreements.

**8102.6(a)(19):** This subsection requires the Borrower or Grantee to agree to provide a copy of the Brownfield Remediation Final Report. This requirement is necessary to make sure that all Remedial Work ends in a final product.

**8102.6(a)(20):** This subsection established that if the Borrower or Grantee fails to comply with any law specific to the Brownfield Infill Project or Infill Development Project, or any provision set forth within this section, that the action will be deemed an event of default unless it is otherwise waived by the Authority pursuant to 8102.6(a)(25)(F). An event of default could result in an Infill Loan becoming immediately due and payable; the seizure of any unexpended Infill Grant funds and the immediate conversion of an Infill Grant to an Infill Loan pursuant to 8102.4 which shall then be immediately due and payable. Additional default procedures are outlined in section 8102.6(a)(25). This provision is necessary to encourage a Borrower or Grantee to comply with the terms of the financial agreement and to be effective stewards of the state's monies. This subsection is necessary to be consistent with standard lending practices to identify the causes and consequences of default.

**8102.6(a)(21):** This subsection requires the Grantee or Borrower to agree to comply with all applicable law related to assessment, characterization and remediation of a Brownfield. This subsection is consistent with Health and Safety Code section 44526(h)(1).

**8102.6(a)(22):** This subsection establishes that the provision of false information by an Applicant, Grantee, Borrower, or team member identified in the Infill Application will empower the Authority to invoke the default provisions pursuant to section 8102.6(a)(25) or false information provisions pursuant to section 8102.6(a)(25), as it deems appropriate. This is necessary to be consistent with the Authority's standard lending practices and identify the terms of the financial agreement in writing.

**8102.6(a)(23):** This subsection establishes the false information provisions the Authority may invoke under section 8102.6(a)(22). This provision is necessary to discourage any false information or "bad actors" from entering into a legal financial agreement with the state. This is necessary to be consistent with the Authority's standard lending practices and identify the terms of the financial agreement in writing.

**8102.6(a)(24):** This subsection establishes the various conditions under which a Borrower or Grantee may be deemed in default. This is necessary to be consistent with the Authority's standard lending practices and identify the terms of the financial agreement in writing.

**8102.6(a)(25):** This subsection establishes the various default provisions therein that a Borrower or Grantee may be subject to in an event of default. This is necessary to be consistent with the Authority's standard lending practices and identify the terms of the financial agreement in writing.

**8102.6(a)(26):** This provision establishes that a Borrower or Grantee has a reasonable opportunity to cure prior to the Authority invoking any default provisions under 8102.6(a)(25). This is necessary to be consistent with the Authority's standard lending practices and identify the terms of the financial agreement in writing.

**8102.6(a)(27):** This subsection requires the Grantee to agree that if it recovers damages from a person liable for the existence of Hazardous Material at the Brownfield, that money so recovered

shall be used to refund the Infill Grant. This subsection is consistent with standard lending practices to assure repayment in situations with a Responsible Party.

**8102.6(a)(28):** This subsection allows that the parties to the financial agreement may deem other terms and conditions necessary. This subsection is necessary to make it clear that the parties to an Infill Loan or Infill Grant may agree to additional terms and conditions specific to the Brownfield, Brownfield Infill Project, and/or Infill Development Project.

3. Necessity.

The addition of Section 8102.6 is necessary to establish the minimum terms and conditions of the Infill Loans and Infill Grants extended under the program to: ensure that the applicants are legally required to comply with the program provisions; ensure conformity to statute; and maintain the Authority's fiduciary responsibility with respect to state monies.

4. Technical, Theoretical and/or Empirical Studies, Reports or Documents.

The Authority did not rely upon any technical, theoretical or empirical studies, reports or documents in proposing the adoption of this regulation.

5. Alternatives to the Regulation Considered by the Agency and the Agency's Reasons for Rejecting Those Alternatives.

No other alternatives were presented to or considered by the Authority. The addition of the regulation is necessary to conform the regulation to the statute, as amended.

6. Alternatives to the Proposed Regulatory Action that Would Lessen any Adverse Impact on Small Business.

The Authority has not identified any alternatives nor have any alternatives otherwise been identified and brought to the attention of the Authority that would lessen any adverse impact on small businesses. In fact, the regulation may have a positive effect on small businesses by expanding the types of financing available under the Program.

7. Evidence Supporting Finding of No Significant Adverse Economic Impact on any Business.

There will be no adverse economic impact on any California businesses. In fact, the regulation may have a positive effect on businesses by expanding the types of financing permissible under the Act to include loans and grants to businesses interested in the development of brownfields.

## **SECTION 8102.7 CONDITIONS OF FUNDS DISBURSEMENT, FUNDS DISBURSEMENT AND LOAN REPAYMENT PROCEDURES.**

### **1. Public Problem, Administrative Requirement or Other Condition or Circumstance that the Regulation is Intended to Address.**

Health and Safety Code Section 53545.14 mandates that the Authority *shall administer grants or loans...under the CALReUSE program...for the purpose of brownfield cleanup that promotes infill residential and mixed-use development, consistent with regional and local land use plans.*

### **2. Specific Purpose of the Regulation.**

The new Section 8102.7 sets forth the conditions for disbursing funds and establishes procedures for funds disbursement and loan repayment. These requirements are necessary to be consistent with Health and Safety Code sections 53545.14, 44501(e)(1), 44526(h)(1), 44526(h)(2) and 44526(i).

**8102.7(a):** This subsection describes the conditions under which the Strategic Partner shall disburse Infill Grant or Infill Loan funds. The subsection is necessary to clarify the conditions for disbursement of the funds to the Borrower or Grantee.

**8102.7(b):** This subsection describes the process under which the Strategic Partner shall disburse Infill Grant or Infill Loan funds. The subsection is necessary to clarify the process and priority for disbursement of the funds to the Borrower or Grantee.

**8102.7 (c):** This subsection describes procedures that the Strategic Partner will follow for receiving Infill Grant or Infill Loan repayments. The subsection is necessary to clarify the application of any loan repayment proceeds received by the Strategic Partner.

### **3. Necessity.**

The addition of Section 8102.7 is necessary in order to provide guidance and procedures for the Strategic Partners to implement the program uniformly across the State, ensuring conformity to statute.

### **4. Technical, Theoretical and/or Empirical Studies, Reports or Documents.**

The Authority did not rely upon any technical, theoretical or empirical studies, reports or documents in proposing the adoption of this regulation.

### **5. Alternatives to the Regulation Considered by the Agency and the Agency's Reasons for Rejecting Those Alternatives.**

No other alternatives were presented to or considered by the Authority. The addition of the regulation is necessary to conform to the statute, as amended.

### **6. Alternatives to the Proposed Regulatory Action that Would Lessen any Adverse Impact on Small Business.**

The Authority has not identified any alternatives nor have any alternatives otherwise been identified and brought to the attention of the Authority that would lessen any adverse impact on small businesses. In fact, the regulation may have a positive effect on small businesses by expanding the types of financing available under the Program.

### **7. Evidence Supporting Finding of No Significant Adverse Economic Impact on any Business.**

There will be no adverse economic impact on any California businesses. In fact, the regulation may have a positive effect on businesses by expanding the types of financing permissible under the Act to include loans and grants to businesses interested in the development of brownfields.

## SECTION 8102.8 INFILL LOAN AND INFILL GRANT EXTENSIONS

### 1. Public Problem, Administrative Requirement or Other Condition or Circumstance that the Regulation is Intended to Address.

Health and Safety Code Section 53545.14 mandates that the Authority *shall administer grants or loans...under the CALReUSE program...for the purpose of brownfield cleanup that promotes infill residential and mixed-use development, consistent with regional and local land use plans.*

### 2. Specific Purpose of the Regulation.

The new Section 8102.8 establishes the conditions under which the term of a loan or grant may be extended. These requirements are necessary conform to Health and Safety Code sections 53545.14, 44501(e)(1), 44526(h)(1), 44526(h)(2) and 44526(i).

**8102.8(a):** This subsection establishes the process and conditions upon which the Strategic Partner may extend the maturity of the Infill Grant or Infill Loan. The subsection is necessary to provide instruction and guidance to an awardee and the Strategic Partner on the conditions for extending the maturity of an Infill Grant or Infill Loan.

**8102.8(b):** This subsection describes the length of time an Infill Grant or Infill Loan can be extended by the Authority. This subsection is necessary to provide guidance to the Applicant and the Strategic Partner.

### 3. Necessity.

The addition of Section 8102.8 is necessary to provide guidance for the Strategic Partners to implement the program by identifying the conditions for extending a grant or loan, and to ensure uniformity in program administration across the State.

### 4. Technical, Theoretical and/or Empirical Studies, Reports or Documents.

The Authority did not rely upon any technical, theoretical or empirical studies, reports or documents in proposing the adoption of this regulation.

### 5. Alternatives to the Regulation Considered by the Agency and the Agency's Reasons for Rejecting Those Alternatives.

No other alternatives were presented to or considered by the Authority. The addition of the regulation is necessary to conform to the statute, as amended.

### 6. Alternatives to the Proposed Regulatory Action that Would Lessen any Adverse Impact on Small Business.

The Authority has not identified any alternatives nor have any alternatives otherwise been identified and brought to the attention of the Authority that would lessen any adverse impact on small businesses. In fact, the regulation may have a positive effect on small businesses by expanding the types of financing available under the Program.

### 7. Evidence Supporting Finding of No Significant Adverse Economic Impact on any Business.

There will be no adverse economic impact on any California businesses. In fact, the regulation may have a positive effect on businesses by expanding the types of financing permissible under the Act to include loans and grants to businesses interested in the development of brownfields.

## **SECTION 8102.9 STRATEGIC PARTNER REPORTS AND RECORDS RETENTION**

### **1. Public Problem, Administrative Requirement or Other Condition or Circumstance that the Regulation is Intended to Address.**

Health and Safety Code Section 53545.14 mandates that the Authority *shall administer grants or loans...under the CALReUSE program...for the purpose of brownfield cleanup that promotes infill residential and mixed-use development, consistent with regional and local land use plans.*

### **2. Specific Purpose of the Regulation.**

The new Section 8102.9 establishes reporting requirements and records retention for Strategic Partners who assist the Authority to provide grants and loans for the Program. The reports are designed to provide the information needed by the Authority to monitor and evaluate the program and report to the Legislature as mandated. The provisions are necessary to be consistent with Health and Safety Codes Sections 53545.14, 44525.7, 44526(h)(2) and 44526(i).

**8102.9 (a):** This subsection establishes that the Strategic Partner shall provide certain quarterly reports to the Authority as described therein. This subsection is necessary to provide information to the Authority to monitor and evaluate the program and to meet the requirement of Health and Safety Code sections 53545.14 and 44525.7.

**8102.9(b):** This subsection establishes that the Strategic Partner shall provide an annual report to the Authority that describes the current status of the development of each Brownfield for which an Infill Grant or Infill Loan was made. This subsection is necessary to provide information to the Authority to monitor and evaluate the program and to meet the requirements of Health and Safety Code sections 53545.14, 44525.7 and 44526(h)(2).

**8102.9(c):** This subsection establishes that the Strategic Partner shall retain all documents pertaining to an Infill Loan or Infill Grant and its Application for a certain time period. This subsection is necessary to be consistent with the Authority's due diligence and records management requirements.

### **3. Necessity.**

The procedures and requirements of section 8102.9 are necessary to ensure that the Authority has the information to evaluate the program's effectiveness and success as well as meet the Authority's statutory requirements to report to the Legislature and other state agencies as required under separate agreements.

### **4. Technical, Theoretical and/or Empirical Studies, Reports or Documents.**

The Authority did not rely upon any technical, theoretical or empirical studies, reports or documents in proposing the adoption of this regulation.

### **5. Alternatives to the Regulation Considered by the Agency and the Agency's Reasons for Rejecting Those Alternatives.**

No other alternatives were presented to or considered by the Authority. The addition of the regulation is necessary to conform the regulation to the statute, as amended.

### **6. Alternatives to the Proposed Regulatory Action that Would Lessen any Adverse Impact on Small Business.**

The Authority has not identified any alternatives nor have any alternatives otherwise been identified and brought to the attention of the Authority that would lessen any adverse impact on small businesses. In fact, the regulation may have a positive effect on small businesses by expanding the types of financing available under the Program.

7. Evidence Supporting Finding of No Significant Adverse Economic Impact on any Business.

There will be no adverse economic impact on any California businesses. In fact, the regulation may have a positive effect on businesses by expanding the types of financing permissible under the Act to include loans and grants to businesses interested in the development of brownfields.

## SECTION 8102.10 ALLOCATION OF FUNDS TO STRATEGIC PARTNERS

### 1. Public Problem, Administrative Requirement or Other Condition or Circumstance that the Regulation is Intended to Address.

Health and Safety Code Section 53545.14 mandates that the Authority *shall administer grants or loans...under the CALReUSE program...for the purpose of brownfield cleanup that promotes infill residential and mixed-use development, consistent with regional and local land use plans.*

### 2. Specific Purpose of the Regulation.

The new Section 8102.10 establishes the procedures by which the Authority will allocate funds or specific set-asides for Strategic Partners. The provisions are necessary to be consistent with Health and Safety Codes Sections 53545.14, 44501(e)(1), 44526(h)(1), 44526(h)(2) and 44526(i).

**8102.10(a):** This subsection establishes the Authority's ability to allocate funding in competitive rounds or on a continuous basis and requires that the Authority make its intent known as early as practicable in any calendar year when funds are available. This is necessary for the Authority to be able to adequately respond to the demand on the program, and ensure that funding is allocated in a user-friendly manner that targets funds to those projects with essential public benefits.

**8102.10(b):** This subsection requires the Strategic Partners to submit a report to the Authority illustrating the anticipated demand on the program for the following six months. If allocation is not utilized, it will revert to the Authority for reallocation. This is necessary to assist the Authority in effectively managing these program funds.

### 3. Necessity.

The addition of Section 8102.10 is necessary to enable the Authority's board to allocate funds to Strategic Partners and includes provisions that require the Strategic Partners to provide the information necessary for the Authority to conduct short and long term planning in allocating funds and administering the program.

### 4. Technical, Theoretical and/or Empirical Studies, Reports or Documents.

The Authority did not rely upon any technical, theoretical or empirical studies, reports or documents in proposing the adoption of this regulation.

### 5. Alternatives to the Regulation Considered by the Agency and the Agency's Reasons for Rejecting Those Alternatives.

No other alternatives were presented to or considered by the Authority. The addition of the regulation is necessary to conform the regulation to the statute, as amended.

### 6. Alternatives to the Proposed Regulatory Action that Would Lessen any Adverse Impact on Small Business.

The Authority has not identified any alternatives nor have any alternatives otherwise been identified and brought to the attention of the Authority that would lessen any adverse impact on small businesses. In fact, the regulation may have a positive effect on small businesses by expanding the types of financing available under the Program.

### 7. Evidence Supporting Finding of No Significant Adverse Economic Impact on any Business.

There will be no adverse economic impact on any California businesses. In fact, the regulation may have a positive effect on businesses by expanding the types of financing permissible under the Act to include loans and grants to businesses interested in the development of brownfields.

## **SUBSECTION 8102.11 STRATEGIC PARTNER ELIGIBILITY AND SELECTION CRITERIA**

### **1. Public Problem, Administrative Requirement or Other Condition or Circumstance that the Regulation is Intended to Address.**

Health and Safety Code Section 53545.14 mandates that the Authority *shall administer grants or loans...under the CALReUSE program...for the purpose of brownfield cleanup that promotes infill residential and mixed-use development, consistent with regional and local land use plans.*

### **2. Specific Purpose of the Regulation.**

The new Section 8102.11 establishes the eligibility and selection criteria for entities wishing to participate as Strategic Partners for the Program. The requirements are necessary to be consistent with Health and Safety Code Sections 53545.14, 44526(h)(1) and 44526(i).

**8102.11(a):** This subsection establishes that an entity interested in participating as a Strategic Partner must meet certain eligibility and selection criteria as described therein. This section is necessary to ensure that a Strategic Partner is qualified to administer the program on the Authority's behalf.

**8102.11 (b):** This subsection establishes that services provided by a Strategic Partner shall be provided as an independent contractor pursuant to a contract with the Authority. This section is necessary to further clarify the Strategic Partner's legal status with respect to its participation in the program.

**8102.11 (c):** This subsection establishes that an entity may not be a Strategic Partner for a Brownfield for which the entity is a responsible party as defined therein; however, the entity may be an Applicant or Borrower with respect to the abovementioned Brownfield. This section is necessary to make sure that there is not a conflict of interest and to define for entities participating in the program certain conditions that are disallowed under the program.

**8102.11 (d):** This subsection establishes that the Authority may elect to act as a Strategic Partner for the program. This subsection is necessary to ensure that an eligible applicant may always have an entity to submit an application to, specifically in scenarios in which there is a conflict-of-interest with a Strategic Partner or there is no Strategic Partner under contract. This provision is necessary to ensure the Authority can effectively administer the program.

### **3. Necessity.**

The provisions in Section 8102.11 are necessary to ensure that the program is administered by qualified Strategic Partners experienced in brownfield regulatory issues and processes, brownfield development, financial underwriting, and residential and mixed use development. These requirements will assist in ensuring that the program is successfully and effectively administered.

### **4. Technical, Theoretical and/or Empirical Studies, Reports or Documents.**

The Authority did not rely upon any technical, theoretical or empirical studies, reports or documents in proposing the adoption of this regulation.

### **5. Alternatives to the Regulation Considered by the Agency and the Agency's Reasons for Rejecting Those Alternatives.**

No other alternatives were presented to or considered by the Authority. The addition of the regulation is necessary to conform the regulation to the statute, as amended.

6. Alternatives to the Proposed Regulatory Action that Would Lessen any Adverse Impact on Small Business.

The Authority has not identified any alternatives nor have any alternatives otherwise been identified and brought to the attention of the Authority that would lessen any adverse impact on small businesses. In fact, the regulation may have a positive effect on small businesses by expanding the types of financing available under the Program.

7. Evidence Supporting Finding of No Significant Adverse Economic Impact on any Business.

There will be no adverse economic impact on any California businesses. In fact, the regulation may have a positive effect on businesses by expanding the types of financing permissible under the Act to include loans and grants to businesses interested in the development of brownfields.

## **SECTION 8102.12 STRATEGIC PARTNER AS APPLICANT, BORROWER, AND/OR GRANTEE**

### **1. Public Problem, Administrative Requirement or Other Condition or Circumstance that the Regulation is Intended to Address.**

Health and Safety Code Section 53545.14 mandates that the Authority *shall administer grants or loans...under the CALReUSE program...for the purpose of brownfield cleanup that promotes infill residential and mixed-use development, consistent with regional and local land use plans.*

### **2. Specific Purpose of the Regulation.**

The new Section 8102.12 establishes the roles of the Authority and the Strategic Partner when the Strategic Partner is an applicant for a loan or grant under the Program. These requirements are necessary to be consistent with Health and Safety Code sections 53545.14, 44526(H)(1), and 44526(i).

**8102.12(a):** This subsection establishes that the Authority shall be the Strategic Partner for Applications submitted by a Strategic Partner. This subsection is necessary to make sure that an Application submitted and an Infill Grant or Infill Loan received by a Strategic Partner – as the Borrower or Grantee – receive independent review and due diligence by the Authority.

### **3. Necessity.**

The provision is necessary to provide procedures in situations in which the Strategic Partner is the Applicant. The provisions are necessary to be consistent with Health and Safety Codes Sections 53545.14, 44526(h)(1), and 44526(i).

### **4. Technical, Theoretical and/or Empirical Studies, Reports or Documents.**

The Authority did not rely upon any technical, theoretical or empirical studies, reports or documents in proposing the adoption of this regulation.

### **5. Alternatives to the Regulation Considered by the Agency and the Agency's Reasons for Rejecting Those Alternatives.**

No other alternatives were presented to or considered by the Authority. The addition of the regulation is necessary to conform the regulation to the statute, as amended.

### **6. Alternatives to the Proposed Regulatory Action that Would Lessen any Adverse Impact on Small Business.**

The Authority has not identified any alternatives nor have any alternatives otherwise been identified and brought to the attention of the Authority that would lessen any adverse impact on small businesses. In fact, the regulation may have a positive effect on small businesses by expanding the types of financing available under the Program.

### **7. Evidence Supporting Finding of No Significant Adverse Economic Impact on any Business.**

There will be no adverse economic impact on any California businesses. In fact, the regulation may have a positive effect on businesses by expanding the types of financing permissible under the Act to include loans and grants to businesses interested in the development of brownfields.

## **SECTION 8102.13 TECHNICAL ASSISTANCE**

### **1. Public Problem, Administrative Requirement or Other Condition or Circumstance that the Regulation is Intended to Address.**

Sections 44501(e), 44504.1 and 44526(h) of the Health and Safety Code permit loans to assist in financing, among other things, the costs of performing or obtaining brownfield site assessments, remedial action plans and reports, technical assistance, the cleanup, remediation, or development of brownfield sites, or any other similar or related costs, subject to all applicable federal, state, and local laws, procedures, and regulations.

### **2. Specific Purpose of the Regulation.**

The new Section 8102.13 provides a mechanism for an applicant to access technical assistance in connection with remediation of a Brownfield Infill Project.

### **3. Necessity.**

The cleanup and revitalization of brownfields is a complicated and technical process, one that many land owners fall into unknowingly. The addition of Section 8102.13 is necessary to provide a mechanism for Applicants, Borrowers, and Grantees to access the necessary technical assistance, as defined in Section 8090, in connection with navigating the process of cleaning up and developing a brownfield.

### **4. Technical, Theoretical and/or Empirical Studies, Reports or Documents.**

The Authority did not rely upon any technical, theoretical or empirical studies, reports or documents in proposing the adoption of this regulation.

### **5. Alternatives to the Regulation Considered by the Agency and the Agency's Reasons for Rejecting Those Alternatives.**

No other alternatives were presented to or considered by the Authority. The addition of the regulation is necessary to conform the regulation to the statute, as amended.

### **6. Alternatives to the Proposed Regulatory Action that Would Lessen any Adverse Impact on Small Business.**

The Authority has not identified any alternatives nor have any alternatives otherwise been identified and brought to the attention of the Authority that would lessen any adverse impact on small businesses. In fact, the regulation may have a positive effect on small businesses by expanding the types of financing available under the Program.

### **7. Evidence Supporting Finding of No Significant Adverse Economic Impact on any Business.**

There will be no adverse economic impact on any California businesses. In fact, the regulation may have a positive effect on businesses by expanding the types of financing permissible under the Act to include loans and grants to businesses interested in the development of brownfields.

## SECTION 8102.14 SCORING CRITERIA

### 1. Public Problem, Administrative Requirement or Other Condition or Circumstance that the Regulation is Intended to Address.

Health and Safety Code Section 53545.14 mandates that the Authority *shall administer grants or loans...under the CALReUSE program...for the purpose of brownfield cleanup that promotes infill residential and mixed-use development, consistent with regional and local land use plans.*

### 2. Specific Purpose of the Regulation.

The new Section 8102.14 sets forth the criteria, and their values, by which applications will be assessed and have values assigned prior to the Authority's consideration for funding approval. Given this is a new program, the Authority does not know if the program will be oversubscribed, or if there is a need for competitive criteria. Applications will be scored to provide the Authority with the necessary information to quantify and measure anticipated public benefits among a variety of diverse Infill Development Projects.

The Authority may determine to allocate financing to projects earning the greatest number of points in competitive situations; or alternatively, may set a specific point threshold a project must earn in order to be considered.

**8102.14(a):** This subsection assigns the number of points for "Readiness to proceed." The information requested is necessary to assess how "ready" a project is for funding.

**8102.14(b):** This subsection assigns the number of points for "Location within an Economically Distressed Community."

**8102.14(c):** This subsection assigns the number of points for "Location within a priority development area or a local government entity of regional council of governments."

**8102.14(d):** This subsection assigns the number of points for "Depth of Affordability." The information requested will inform the Strategic Partner and the Authority of the depth of the affordable units the Infill Development Project will contain.

**8102.14(e):** This subsection assigns the number of points for "Percentage of Affordability." The information requested will inform the Strategic Partner and the Authority of the amount of affordable units that are to be included in the Infill Development Project.

**8102.14(f):** This subsection assigns the number of points for "Utilization of Green Building Methods." The information requested will inform the Strategic Partner and Authority if the Applicant intends to utilize green building methods.

**8102.14(g):** This subsection assigns the number of points when "The Cleanup Plan for the Brownfield Infill Project does not require Ongoing Operation and Maintenance." The information provided will inform the Strategic Partner and the Authority if there will be ongoing operation and maintenance on the site – that additional remediation and mitigation will be necessary after the term of the loan. Awarding points to those projects that do not require ongoing operation and maintenance addresses the concern of some in the environmental justice community that the program should not prioritize sites with operation and maintenance needs.

**8102.14(g):** This subsection establishes how projects will be prioritized in "tie-breaker situations." The information requested will inform the Strategic Partner and Authority of which

projects most effectively utilize an Infill Grant or Infill Loan award and produce the greater number of housing units per state dollar allocated.

3. Necessity.

The scoring criteria are necessary to provide a tool by which the Authority can uniformly assess the public benefits produced by each project. Each project will receive a score based on the outlined criteria prior to being financed. Staff anticipates that if the program becomes oversubscribed, the Authority's Board may choose to allocate financing to those projects that earn the highest number of points. Staff will utilize the data from previously financed projects to develop alternatives and a recommendation to the Board for a scoring threshold and methodology for the program. The scoring criteria will become extremely necessary if the program becomes oversubscribed.

4. Technical, Theoretical and/or Empirical Studies, Reports or Documents.

The Authority did not rely upon any technical, theoretical or empirical studies, reports or documents in proposing the adoption of this regulation.

5. Alternatives to the Regulation Considered by the Agency and the Agency's Reasons for Rejecting Those Alternatives.

No other alternatives were presented to or considered by the Authority. The addition of the regulation is necessary to conform the regulation to the statute, as amended.

6. Alternatives to the Proposed Regulatory Action that Would Lessen any Adverse Impact on Small Business.

The Authority has not identified any alternatives nor have any alternatives otherwise been identified and brought to the attention of the Authority that would lessen any adverse impact on small businesses. In fact, the regulation may have a positive effect on small businesses by expanding the types of financing available under the Program.

7. Evidence Supporting Finding of No Significant Adverse Economic Impact on any Business.

There will be no adverse economic impact on any California businesses. In fact, the regulation may have a positive effect on businesses by expanding the types of financing permissible under the Act to include loans and grants to businesses interested in the development of brownfields.

## SECTION 8102.15 GEOGRAPHIC DISTRIBUTION TARGETS

1. Public Problem, Administrative Requirement or Other Condition or Circumstance that the Regulation is Intended to Address.

Health and Safety Code Section 53545.14 mandates that the Authority *shall administer grants or loans...under the CALReUSE program...for the purpose of brownfield cleanup that promotes infill residential and mixed-use development, consistent with regional and local land use plans.*

2. Specific Purpose of the Regulation.

The new Section 8102.15 establishes geographical targets for the Authority to use as guidelines in allocating funds across the state.

3. Necessity.

Section 8102.15 provides geographical targets for the Authority's Board to reference in approving the financing of projects. The targets are established with the goal to distribute financing across the state; however, they remain simply targets due to the fact that staff anticipates the majority of financing to be in primarily urbanized metropolitan areas given the purpose of the funds. The percentage targets are based on California's population and were adapted from the California Tax Credit Allocation Committee's regulations, which are widely known and commonly used within the housing development industry.

4. Technical, Theoretical and/or Empirical Studies, Reports or Documents.

The Authority did not rely upon any technical, theoretical or empirical studies, reports or documents in proposing the adoption of this regulation.

5. Alternatives to the Regulation Considered by the Agency and the Agency's Reasons for Rejecting Those Alternatives.

No other alternatives were presented to or considered by the Authority. The addition of the regulation is necessary to conform the regulation to the statute, as amended.

6. Alternatives to the Proposed Regulatory Action that Would Lessen any Adverse Impact on Small Business.

The Authority has not identified any alternatives nor have any alternatives otherwise been identified and brought to the attention of the Authority that would lessen any adverse impact on small businesses. In fact, the regulation may have a positive effect on small businesses by expanding the types of financing available under the Program.

7. Evidence Supporting Finding of No Significant Adverse Economic Impact on any Business.

There will be no adverse economic impact on any California businesses. In fact, the regulation may have a positive effect on businesses by expanding the types of financing permissible under the Act to include loans and grants to businesses interested in the development of brownfields.